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## ***Between Autonomy and Interdependence: the Challenges of Shared Rule after the Scottish Referendum***

**Nicola McEwen and Bettina Petersohn**

**Abstract.** Drawing on the distinction between self-rule and shared rule in multi-level states, this article argues that shared rule has been the neglected element of the UK devolution settlement. The ability of the devolved administrations to participate in, and influence, national decision making through shared rule mechanisms is very limited. The article argues that the lack of shared rule is especially problematic in light of the increasing complexity of the Scottish devolution settlement in the wake of the Scotland Act 2012 and the Smith commission report. Smith, in particular, seems set to increase both the power of the Scottish Parliament and its dependence on UK policy decisions in the areas of tax, welfare and the economy. Creating a more robust intergovernmental system which could manage these new interdependencies will be a significant challenge, and yet, without such a system, the new settlement will be difficult to sustain.

**Keywords:** shared rule, self rule, devolution, Smith commission, Scotland, interdependence

The Scottish constitutional debate, both before and after devolution, has been heavily centred on ‘self-rule’ and the politics of self-government. For many within the broad home rule movement, the goal was to maximise the capacity of the Scottish parliament and government to make policy decisions autonomously. The Scottish parliament enjoys a relatively high degree of self-rule, at least on a par with regions in many federal states. The revisions to the devolution settlement enshrined in the *Scotland Act 2012* and those being developed in the aftermath of the 2014 independence referendum will increase Scottish self-rule within the United Kingdom still further.

This focus on self-rule has left the second aspect of power allocation – shared rule – largely neglected. Shared rule refers to the participation of sub-state nations or regions in decision-making processes at the centre. Shared rule can be formally institutionalised by giving sub-state nations or regions a meaningful presence and influence in national parliaments, or through intergovernmental forums which allow sub-state governments to participate in or co-decide national policies. A machinery of intergovernmental relations has evolved in the UK, but it is weakly institutionalised and dependent upon good communication, goodwill and mutual trust. The opportunities for participation and influence over the decision-making processes of central government remain weak.

Yet, the weakness of shared rule is especially problematic in view of the new constitutional settlement embodied in the *Scotland Act 2012*, and that expected to be legislated in the wake of the Smith Commission’s Heads of Agreement. The former introduces an obligation on the parliament to raise a proportion of income tax, while the latter promises that all income tax paid by Scottish residents will be raised by the Scottish parliament, with the scope to determine the rates and thresholds at which most income tax will be paid. The Smith commission also recommended an increase in the powers of the Scottish parliament in a range of other areas, most notably social security. But it also increases significantly the

interdependence between devolved and reserved powers. Income tax rates and thresholds may be devolved, but every other aspect of income tax, like the definition of taxable income, the personal allowance or rules governing tax credit, exemptions and avoidance, will remain reserved. Some benefits for the elderly and people with disabilities are set to be devolved, but these will interact with and be shaped by the rest of the social security and tax credit system which stays reserved. While once the devolution settlement might have been characterized as a dual system, with a relatively clear separation of reserved and devolved competences, the new emerging system is more complex. It simultaneously increases Scottish autonomy while increasing the devolved institutions' dependence on central government decisions in related policy fields which remain reserved. The draft clauses published in January also revealed the extent to which some of the new devolved competences will require the cooperation and consent of the UK Government before meaningful policy decisions can be implemented.

This article questions whether the architecture of devolution and the mechanisms for managing the interface between devolved and reserved powers are capable of managing such interdependence. This question is addressed in three sections. We first set out in more detail the distinction between self-rule and shared rule and their relationship to the structural allocation of power in federal and regionalised political systems. We then examine the limited shared rule mechanisms built into the architecture of UK devolution. In the third section, we argue that these mechanisms are inadequate to manage the more complex devolution settlement emerging in the wake of the Scottish independence referendum.

### **Self-Rule, Shared Rule and Power allocation in Multi-level States**

All multi-level systems combine elements of self-rule and shared rule. Self-rule refers to the extent to which regional governments are independent of central government, for example, in their scope for policy-making, legislation and revenue-raising. Shared rule, by contrast, refers to the capacity of a regional government to influence central decision making. We focus here on shared rule.

In their Regional Authority Index, Hooghe *et al* identified four dimensions of shared rule.<sup>1</sup> The first is the extent to which regional representatives co-determine national legislation. This usually takes place within a second chamber, where regional governments can be directly represented, as in the German Bundesrat, or where regions are the basis of representation, as in the US Senate, with variable degrees of influence in both cases. The second dimension of shared rule is the extent to which regional governments share executive authority with central government within intergovernmental meetings. Shared rule is stronger when intergovernmental meetings are routinized rather than ad hoc, and when they reach decisions which are binding on both tiers of government. The third dimension refers to the extent to which regional representatives co-determine the distribution of national tax revenues in intergovernmental forums or in legislatures with regional representation, negotiating and sometimes with veto power over the distribution of tax revenues, including intergovernmental grants. The final dimension is whether regional representatives, or regional electorates, can co-determine reforms to the constitution, especially with respect to the distribution of powers between central and regional governments. Shared rule is higher where regional governments can postpone constitutional proposals, amend constitutional legislation,

or influence the decision-making process in other ways, potentially through vetoing change, or where change would require popular consent in a regional referendum.

The degree of self-rule and shared rule in a multi-level system is influenced by the way in which powers are allocated to different levels of government. A dual allocation of power gives each level a high degree of self-rule. Assigning exclusive jurisdiction and competences over the legislative and implementation processes to each level of government minimises the necessity for coordination and co-decision while leaving greater opportunities for unilateral decisions. Canada is the archetype, where there are high levels of provincial autonomy and both federal and provincial governments have traditionally enjoyed clearly demarcated spheres of jurisdiction in most policy spheres. Extensive coordination and cooperation (vertical and horizontal) takes place but it is weakly institutionalised. Where federal-provincial coordination agreements are reached in areas of provincial jurisdiction, provinces can have the (often contested) possibility of opting-out. The development of the post-war welfare state saw greater co-ordination and harmonisation, though the province of Quebec stood apart, first as a result of the detachment of a conservative regime then, later, in the desire of a progressive liberal regime to be 'maîtres chez nous', including through negotiated opt-outs (with fiscal compensation) of a raft of federal-provincial social programmes to permit the development of a distinctive welfare regime. In the area of income tax there remain separate federal and provincial tax powers, but most provinces have harmonised some policies and share administration of taxes through Revenue Canada. Quebec is again the exception, with more distinctive tax policies and a separate body, Revenue Quebec, which collects federal and provincial taxes for Quebec residents.<sup>ii</sup>

At the other end of the spectrum are those multi-level systems where the powers and responsibilities of both levels of government are interlocked, often with central institutions having legislative power over the majority of policies while the lower level is responsible for execution and administration. Such systems have built-in incentives for a high degree of shared rule to co-ordinate and co-decide legislation and policy-making. The German system is the classic example of interdependent, if not interlocked, levels of government. As a result of the functional allocation of power but also the particular composition of the Bundesrat, joint decision-making and intergovernmental relations between the levels are highly institutionalised. Co-ordination predominantly takes place between the Länder administrations and the federal level. Länder governments also coordinate positions horizontally, beginning with voluntary coordination in the area of education and culture to more institutionalised inter-ministerial meetings which have decision-making powers over a broad range of policy areas, including justice, home affairs and finance. Due to a political culture which favours consensual decision-making, harmonisation, and comparable levels of living conditions, Länder governments even coordinate when they have the power to pursue distinctive policies.<sup>iii</sup> In education, for example, coordination began with the harmonisation of school years, start/end dates and holidays, and expanded to teacher training and education standards for subjects and school levels. Although broadcasting is a Land responsibility, the interstate treaty on broadcasting between all Länder defines uniform, national regulations including the fees to be paid by households.

Dual and interlocked systems are at two ends of a spectrum of power allocation, but there are a variety of forms of multi-level power allocation in between. As depicted in Figure 1, the way in which powers are allocated is associated with the degree of autonomy, co-operation and co-decision between each level. In general, those systems which lean more towards self-rule with a dual allocation of power require less cooperation and co-decision between central and regional governments, while those which are more interlocked have higher levels of shared rule with more structural opportunities for regional governments or representatives to shape those national decisions which affect their powers and responsibilities. Between the two poles are varieties of informal and formal co-operation involving central and regional governments bilaterally or multilateral cooperation among all regional governments with, or without, central government involvement.

*Figure 1: Power Allocation and Models of Intergovernmental Co-operation in Multi-level States<sup>iv</sup>*



The archetypal cases discussed above are classic federal states. More recently regionalised or federalised states have mostly leaned more towards self-rule, separating powers between levels of government and often distributing power asymmetrically, with distinctive regions or sub-state nations enjoying varying levels of autonomy and exercising jurisdiction over different policy areas. Even here, however, there is a need to cooperate. A complete separation of powers is neither possible nor reflective of the interconnectedness of modern policy challenges. Spill-over effects, when decisions at one level have consequences for the other, are commonplace, especially where central and sub-state policy jurisdictions are clearly interconnected (social security and social policy, or energy regulation and energy efficiency, for example). Some policy problems – climate change or security - defy the constitutional allocation of powers and necessitate cooperation within and between states. The process of Europeanisation provides further incentive for intergovernmental cooperation when EU competence overlaps with sub-state competence (as is often the case), and member states are represented in the European Council by the national government (as is almost always the case).

The extent to which these interdependences are accompanied by institutionalised mechanisms for joint decision-making varies. Federalisation in Belgium has followed the principle of separate and exclusive powers for the three institutional levels (federal, regional and linguistic community) but a machinery of intergovernmental relations, including compulsory agreements in areas like transport or waterworks as well as voluntary information sharing, has been established alongside decentralisation to manage policy interdependencies. Recent reforms to enhance the fiscal autonomy of the Belgian regions were accompanied by intergovernmental agreement to avoid unfair tax competition, achieve fiscal consolidation and maintain the progressive character of income tax. In Spain, Autonomous Communities

(ACs) have a significant degree of self-rule, but it is sometimes circumscribed by the power of central government to design framework legislation, for example, in health or education, setting parameters within which the ACs can act. An extensive series of inter-ministerial sectoral conferences has developed to manage policy interdependencies across a range of policy fields. Not all of them meet frequently; the Council of Fiscal and Financial Policy and the Conference on Issues Related to the European Communities are amongst the most prominent. Moreover, as vertical intergovernmental bodies in which the central government plays the dominant role, they provide only a modest degree of shared rule.<sup>v</sup>

As will be set out below, the way in which powers were allocated in the UK in the 1998 devolution settlement leaned more towards self-rule rather than shared rule (at least for Scotland) but recent changes suggest that new powers will increase the interdependence between the two governmental and legislative tiers. Informal processes of intergovernmental cooperation have developed to manage interdependence, alongside a fairly weak machinery of intergovernmental relations. These are arguably insufficient to manage the new interdependencies that the ongoing constitutional changes seem set to generate.

## **II Devolution and the Weakness of Shared Rule in the UK**

The *Scotland Act 1998* implied a significant increase in the degree of ‘self-rule’ enjoyed by Scotland within the United Kingdom. Although in strictly legal terms, the devolution settlement did not diminish the sovereignty of the Westminster parliament, in practice, it gave significant decision-making autonomy to the Scottish parliament and government, on a par with many sub-state units in federal states. Moreover, it has become an established principle that the Westminster parliament will now not legislate in devolved spheres without the prior consent of the Scottish parliament. The one area where the devolution settlement involved a comparative lack of self-rule vis-à-vis regions in federal states was in the level of fiscal autonomy. By contrast, the Scottish Government has enjoyed a degree of autonomy over its spending decisions exceeding that found in many other multi-level states **where spending is sometimes limited to designated policy areas or transfers are made conditional upon meeting minimum national standards, for example, for the provision of health care services.**

The high degree of self-rule stands in stark contrast to the weakness of formal shared rule.<sup>vi</sup> This in part reflects the model of devolution introduced in 1999, which conformed most closely to a dual allocation of power, with a clear distinction between powers reserved to the Westminster parliament, powers devolved to the Scottish parliament (all those powers not explicitly reserved in the *Scotland Act 1998*), and very few areas of concurrent jurisdiction, reducing the structural incentives for cooperation.

The low level of shared rule is evident when assessed in light of the dimensions set out by Hooghe et al in their regional authority index. With respect to the first dimension, law making, the level of shared rule in Scotland is virtually absent. In Westminster, reform of the House of Lords to incorporate territorial representation remains a federalist’s pipe dream, and there is no Scotland-wide territorial representation in the House of Commons. MPs are elected to represent constituencies and parties, not regions or nations. Scotland-focused

procedures remain in the chamber and the Scottish Affairs committee, but their status – never high – has diminished since devolution. The prospect of ‘English votes for English laws’ (EVEL), the implementation of which would see reduced voting rights for Scottish MPs, may accentuate the lack of parliamentary shared rule (see Charlie Jeffery in this issue). It will territorially demarcate Scottish MPs as a distinctive group while simultaneously weakening their influence over the legislative process. ‘EVEL’ also runs counter to classic federal models in which territorial representation is channelled through the upper house while equal representation of the population and party affiliation dominate the lower house.

The only formal representation of Scotland as a territorial entity at the UK level is the Scotland Office. Although its status diminished after devolution, it has regained some authority and influence following the emergence of party political incongruence in the composition of the Scottish and UK governments after the 2007 election. As well as bringing party competition to the intergovernmental arena, this period heralded revisions to the devolution settlement, giving the Scotland Office a key role in steering new devolution legislation through the legislative and implementation process.<sup>vii</sup> However, its dual role of advancing Scotland’s interests in the UK government and advancing the UK government’s interests in Scotland has, at times, appeared to tilt towards the latter, weakening its capacity to act as a voice for Scotland in national decision-making.

The preference of the Scottish Government has been to maximise its self-rule, but, where representation at the centre is necessary, it has sought influence through inter-executive relations (Hooghe et al’s second dimension of shared rule). The Scottish Government has tried to nurture bilateral engagement directly with UK departments rather than to use the Scotland Office as a gateway to Whitehall. Intergovernmental relations featured little in the preparations for devolution, but developing ‘working connections’ between officials and ministers was always going to be necessary. Devolution will always impose limits on the policy and legislative autonomy of the Scottish government and parliament, and the boundary between devolved and reserved powers needs to be managed. As Agranoff observed, ‘self-rule can be formally introduced to a polity’s governing arrangements but cannot be maintained without the working connections that tie central governments to those constituent units that enjoy measures of independent and interdependent political power, governmental control, and decision-making’.<sup>viii</sup>

By design, IGR in the UK is mainly informal, underpinned by good communication, goodwill and mutual trust. The Memorandum of Understanding, the concordats between the Scottish Government and Whitehall departments, and the Devolution Guidance Notes were intended to embody and nurture a co-operative working culture among civil servants on a day-to-day basis. Although the MoU provided for a Joint Ministerial Committee (JMC) to bring together all of the devolved administrations with the UK government, it met only a few times in plenary and functional formats before becoming largely redundant in 2002. The exception was the JMC (Europe) where there was a clear and continuing need to bring the devolved administrations together with the UK government before European Council meetings. Under the radar, however, ministers and officials coordinated in other forums and, during the era of predominant party political congruence, any potentially contentious intergovernmental issues could be headed off by a phone call between party colleagues.<sup>ix</sup> These relationships, though



informal, were broadly cooperative. The Joint Ministerial Committee was only resurrected after the emergence of party political incongruence in the composition of governments north and south of the border after 2007. It now meets annually in plenary format and when required (usually annually) in its domestic format, while meetings of the JMC (Europe) continue to conform to the timetable of European Council meetings. The JMC remains the tip of the iceberg of intergovernmental relations. Most intergovernmental exchange continues to take place below the radar, between officials of varying ranks working in similar or overlapping policy issues on a (vertical and horizontal) bilateral basis.

Yet, intergovernmental relations remain, at best, a weak form of shared rule, which provides only limited opportunities to participate in UK decision-making. Despite the devolved administrations sometimes using the JMC to air common grievances, UK intergovernmental relations are hierarchical and dominated by the UK government. The JMC is not an executive body – its role is to provide a forum for communication and shared learning, not decision-making. Good communication and cooperation was meant to avoid the emergence of disputes, and to resolve them if necessary. In 2010, a formal dispute resolution mechanism was introduced within the JMC, and invoked by the devolved administrations to address a particular financial grievance they shared. However, the opportunities for influence remain limited by the in-built hierarchical position of the UK government, the more frequent lack of common cause among the devolved governments, and the limited opportunities for one administration acting alone to use this forum to advance its own interests. The Scottish government's preference has been to lobby Whitehall directly by using 'soft powers', or powers of persuasion. This can secure influence in areas where Scotland has particular and recognised resource strength, policy expertise and demonstrable leadership. For example, its marine resource strength has enhanced the Scottish Government's influence in contributing to the UK government's approach to the EU Common Fisheries Policy, while in the area of renewable energy, where Scotland is regarded as a front-runner, intergovernmental cooperation has secured some concessions in UK Electricity Market Reform, for example over the negotiation a separate 'strike price' for the Scottish islands. Political and electoral strength can also lend popular legitimacy to intergovernmental demands and boost the capacity to influence outcomes. A prime example was when, after the SNP secured a parliamentary majority in the 2011 election, the Scottish and UK Governments negotiated an agreement to transfer legal competence to the Scottish Parliament to enable it to legislate for the independence referendum. In other policy areas or other political contexts, the opportunities for exercising influence through these bilateral informal channels are more limited.

There is even less evidence of Hooghe *et al*'s third dimension of shared rule, the ability to co-determine the distribution of national tax revenues. The Scottish government has no opportunity to influence how national taxes are distributed, and to date has had little revenue-raising capacity of its own. The vast majority of the Scottish government's budget takes the form of a fiscal transfer – the block grant – the level of which is determined by the Barnett formula (see David Bell in this issue). This, in turn, is dependent on the expenditure decisions of the UK government over which the Scottish Government has no control, though Scottish parliamentarians can at least speak to these decisions (at least until EVEL is introduced). Devolution thus created a considerable vertical fiscal imbalance; power and responsibility for



spending have not been matched by the power and responsibility to raise revenue. Such an imbalance, not uncommon in multi-level systems, often generates contentious intergovernmental disputes. Although the maintenance of a formula-driven budget settlement has prevented frequent disputes, intergovernmental issues have emerged over discretionary spending and especially in light of the broader context of fiscal austerity and budgetary restraint.

Thus, on the first three dimensions, the Scottish devolution settlement provides very little scope for shared rule. There is, however, an informal but significant degree of shared rule with respect to the final dimension, constitutional reform. The constitution is a reserved matter and so falls firmly within the legal jurisdiction of the UK parliament, but, by convention, the Scottish Parliament's consent to any changes to the Scottish devolution settlement must be secured. A precedent was set with the *Scotland Act 2012*. The Scottish Parliament passed a legislative consent motion supporting the general principles of the Scotland bill at the start of its legislative journey, but with recommendations for improvement and the withholding of final consent until legislative amendments were examined and some modest intergovernmental concessions secured. Although there was no legal impediment to it doing so, the UK government had indicated that the legislation would not be passed without the consent of the Scottish Parliament, suggesting that the Scottish Parliament would have been able to exercise a veto. Such an outcome has yet to be tested.

### **III Devolution and interdependence in post-referendum Scotland**

The election of the Scottish National Party to government in 2007 kick-started an intense constitutional debate and reform to the original devolution settlement. Following the recommendations of the Calman Commission, the *Scotland Act 2012* heralded a significant increase in the powers and responsibilities of the Scottish Parliament, with a particular focus on financial accountability and revenue-raising. The Smith Commission, established in the immediate aftermath of the referendum, recommended further powers and responsibilities for the parliament in taxation, welfare, and a variety of other policy areas and programmes before the main provisions of the *Scotland Act 2012* have even been introduced. If its proposals become law, they will reinforce a tendency already evident in the *Scotland Act 2012* – an increase in the powers of the parliament alongside a simultaneous increase in its dependence on Westminster.

The *Scotland Act 2012*, and the Smith proposals once implemented, will increase the self-rule of the Scottish Parliament, especially with respect to revenue-raising. Whereas the former provided for a modest increase in tax autonomy, the latter goes further with a recommendation for the devolution of 100% tax on earned income, including almost all rates and thresholds, as well as the devolution of air passenger duty and the aggregates levy, and an assigned share of VAT revenues. The proposals also create new interdependencies in tax policy. The Smith report insists that income tax will remain a 'shared tax', under the shared control of the UK and Scottish parliaments. In practice, the Scottish government will determine tax rates and thresholds for Scottish taxpayers; the UK government will remain responsible for all other areas of income tax, including the personal allowance, taxes on

savings, tax credits and the framework for determining the rules underpinning income tax policy, including definition of taxpayers and rules on tax avoidance and tax relief. The UK government will thus determine the framework within which the new Scottish powers will be exercised, and its policies will have a direct impact on those aspects of income tax policy which are to become the responsibility of the Scottish government and parliament. The two governments will also share a bureaucracy - Her Majesty's Revenue and Customs (HMRC) will continue to collect and administer Scottish income tax as well as income tax from the rest of the UK.

The recommendations of the Smith Commission also create new interdependencies in other policy spheres, most notably social security. Its recommendations would bring around 14% of social security spend under the control of the Scottish Parliament, including Disability Living Allowance/Personal Independence Payments, Attendance Allowance, and Carer's Allowance. These benefits interact with many other benefits, tax credits and tax/VAT exemptions, all of which remain reserved to the UK government. The Smith report also recommended that the Scottish government be permitted flexibility in the administration of the Universal Credit (UC), the centrepiece of the UK government's welfare reforms. In addition, the Scottish Parliament is to have the power (thus far ill-defined) to 'vary' the housing cost elements of UC, including 'varying' the under-occupancy charge and local housing allowance rates, eligible rent and deductions for non-payment. These housing elements are not only closely related to other areas of the Universal Credit, but also to other aspects of housing policy which remain reserved, include housing taxes and tax relief, and policies which shape both the mortgage market and the capacity for the Scottish government to borrow to invest in social housing. The Scottish government is to assume responsibility for at least some employment support programmes for the unemployed, but it will have no formal role in Job Centre Plus, which provides the frontline service to jobseekers, nor to the development or oversight of rules making benefit entitlement conditional upon take-up and completion of employment support schemes. Decisions taken by UK ministers will affect, in fundamental ways, the new areas of devolved responsibility in social security. These interdependencies will create more spill-over effects, ensuring that the decisions taken by one level of government will have repercussions for the other.

The emerging devolution settlement is thus more complex and interdependent than that set out in the Scotland Act 1998. The attempt to incorporate these new provisions in a draft Scotland Bill revealed both the gradual departure from the 'reserved powers' model and the emerging institutional interdependence; 12 of the new clauses include specific requirements for intergovernmental consultation, eight of which require the explicit consent of the relevant Secretary of State before devolution decisions can be implemented. The Smith Commission recognised this increased complexity in its call for the reform and "scaling up" of intergovernmental machinery "as a matter of urgency", including new bilateral arrangements, and a meeting of the Joint Ministerial Committee in December kick-started a re-evaluation within the Cabinet Office of the existing intergovernmental arrangements. Some new bilateral intergovernmental forums have already emerged, outside of the formal JMC framework. The Joint Exchequer Committee, composed of three UK ministers (the Chief Secretary to the Treasury, the Exchequer Secretary, and the Secretary of State for Scotland) and two Scottish Government ministers (the Cabinet Secretary for Finance, Employment and Sustainable

Growth and the Cabinet Secretary for Parliamentary Business and Government Strategy) has been meeting since September 2011 as a forum for high level discussions on the implementation of the financial provisions of the *Scotland Act 2012*. At operational level, a *Scotland Act 2012* implementation programme board, including representatives from HMRC, HM Treasury, the Scotland Office and the Scottish government, has been overseeing the delivery work carried out by HMRC with respect to the implementation of the Scottish rate of income tax as well as the devolution and, hence, the disapplication of Stamp Duty Land Tax and Landfill Tax in Scotland. However, the focus of these forums, to date, has been on implementing new powers. We can expect them, and similar intergovernmental forums in social security, to extend their work to incorporate implementation of the Smith powers. It is not at all certain that they will have a permanent role in managing policy interdependence or in providing an avenue for Scottish influence over those areas of reserved policy which will directly impact upon Scottish competences.

Yet, if the new interdependent devolution settlement is to be sustainable, and if it is to avoid the emergence of tensions, manage policy overspill and maintain effective communication, it may require more robust mechanisms of shared rule more akin to those found in federal systems. Given the weakness of the other indicators of shared rule highlighted above, this is most feasible within the intergovernmental arena. Revising intergovernmental relations doesn't require new legislation, but it would require a cultural change in the relationship between the UK and Scottish Governments. Existing multi-lateral IGR forums like the JMC would be inappropriate for managing those areas that would predominantly pose an intergovernmental challenge for only the UK Government and the Scottish Government. Existing bilateral procedures, where the two governments interact at the level of officials and ministers as and when necessary, or as and when the opportunity arises, seem similarly inadequate to meet the new challenges of an interdependent devolution settlement. Informal communications and interpersonal trust will always be necessary, but they are insufficient. They offer no guarantees that the Scottish government would be able to gain access to key UK policy makers operating in shared policy space, or have influence over those UK policies which will inevitably shape and constrain Scottish policy autonomy, and alter the social and economic context in which devolved policy choices must be made.

Yet, the asymmetry of the UK state, the lack of a federal mind-set, the enduring commitment to the doctrine of parliamentary sovereignty, and the desire for *both* governments (at least currently) to maximise their respective decision-making autonomy, combine to make managing a more interdependent system difficult. Devising more effective bilateral intergovernmental processes and forums is possible. However, the prospect of such forums leading to the Scottish and UK governments genuinely sharing executive authority and making decisions which would be mutually binding (Hooghe *et al*'s second indicator of shared rule) seems unlikely. Such a degree of influence for the Scottish government would be unlikely to secure legitimacy across the UK, nor curry favour in Westminster and Whitehall.

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<sup>i</sup> Marks, G., Hooghe, L., and Schakel, A. H. (2008) 'Measuring Regional Authority'. *Regional and Federal Studies: Special Issue: Regional Authority in 42 Countries*, 18 (2-3): 111-121.

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- <sup>ii</sup> Bakvis, H., Baier, G. and Brown, D. (2009) *Contested Federalism. Certainty and Ambiguity in the Canadian Federation* (Oxford: Oxford University Press).
- <sup>iii</sup> Auel, K. (2014) 'Intergovernmental relations in German federalism: Cooperative federalism, party politics and territorial conflicts', *Comparative European Politics*, 12 (4-5): 422-443, p. 426-30.
- <sup>iv</sup> Figure adapted from Broschek, J. (2009) *Der kanadische Föderalismus. Eine historisch-institutionalistische Analyse*. (Wiesbaden: VS Verlag für Sozialwissenschaften), p. 49.
- <sup>v</sup> Aja, E., Colino, C. (2014) 'Multilevel structures, coordination and partisan politics in Spanish intergovernmental relations', *Comparative European Politics*, 12 (4-5): 444-467.
- <sup>vi</sup> McEwen, N. and Swenden, W. (2014) 'UK devolution in the shadow of hierarchy? Intergovernmental relations and party politics', *Comparative European Politics*, 12 (4-5): 488-509.
- <sup>vii</sup> McEwen, N., Swenden, W., and Bolleyer, N. (2012) 'Intergovernmental Relations in the UK: Continuity in a Time of Change?', *British Journal of Politics & International Relations*, 14 (2): 323-343
- <sup>viii</sup> Agranoff, R. 2004, 'Autonomy, devolution and intergovernmental relations', *Regional and Federal Studies*, vol.14, no.1: 26-65
- <sup>ix</sup> Gallagher, J. 2012, 'Intergovernmental Relations in the UK: Co-operation, Competition and Constitutional Change', *British Journal of Politics & International Relations*, 14 (2): 198-213